

Notice
Of
Rulemaking Hearing

Tennessee Real Estate Commission - 1260

There will be a hearing before the Tennessee Real Estate Commission to consider the promulgation of rules and amendments to rules pursuant to T. C. A. § 62-13-203(a). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T. C. A. § 4-5-204, and will take place in Room 160 of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 9:00 a.m. (Central Time) on Thursday, May 3, 2007.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243 at (615) 741-0481.

For a copy of this Notice of Rulemaking Hearing, contact the Tennessee Real Estate Commission, attention Donna Hancock, Tennessee Real Estate Commission, 500 James Robertson Parkway, 1st Floor, Nashville, Tennessee 37243 at (615) 741-2273.

Substance of Proposed Rules

Chapter 1260-01
Licensing

Amendments

Rule 1260-01-.01 Applications For Examinations is amended by adding a new paragraph (4) as follows:

- (4) No person shall be eligible for examination or be considered for licensure unless two (2) years have passed from the date of expiration of probation, parole or conviction, or from the date of release from incarceration, whichever is later in time. This restriction shall apply to all felonies, and to misdemeanors which involve the theft of money, services, or property. An applicant who appears before the Commission requesting licensure and who is denied will not be eligible for reconsideration for six (6) months from the date of denial.

Authority: T.C.A. §§62-13-203 and 62-13-303(a)(1).

Rule 1260-01-.12 Fees is amended by adding a new paragraph (5) as follows:

- (5) A penalty fee of fifty dollars (\$50.00) per month, or portion thereof, for failing to timely renew a license if the licensee reinstates the license within the sixty (60) day time frame set forth in T. C. A. §62-13-319(a); provided however, the Commission shall have the discretion to waive or lower said fee for good cause shown.

Authority: T.C.A. §§62-13-203, 62-13-307 and 62-13-319.

Rule 1260-01-.15 Errors and Omissions Insurance Coverage is amended by adding a new paragraph (4) as follows:

- (4) Any independently obtained errors and omissions insurance policy shall, at a minimum, be issued upon the same terms and conditions as the policy obtained by the Tennessee Real Estate Commission pursuant to T.C.A. § 62-13-112, including, but not limited to, the limits of coverage, the permissible deductible, the permissible exemptions and the term of the policy.

Authority: T.C.A. §§62-13-203 and 62-13-312.

Chapter 1260-02 Rules of Conduct

Amendments

Rule 1260-02-.01 Supervision of Affiliate Brokers is amended by deleting paragraph (2) and redesignating the subsequent paragraph accordingly.

Authority: T.C.A. §§62-13-203 and 62-13-303.

Rule 1260-02-.33 Gifts and Prizes is amended by deleting paragraph (2).

Authority: T.C.A. §62-13-203(b).

Chapter 1260-02 Rules of Conduct

New Rules

Table of Contents

1260-02-.37 Septic System Inspection Letters

1260-02-.37 Septic System Inspection Letters. A licensee preparing an offer shall provide in the offer and make the buyer aware that, for a fee, a septic system inspection letter is available through the Tennessee Department of Environment and Conservation, Division of Ground Water Protection.

Authority: T. C. A. §§ 62-13-203(a) and 62-13-403.

Chapter 1260-05 Educational Requirements

Amendments

Rule 1260-05-.01 Purpose is amended by deleting the text of the rule in its entirety and substituting instead the following so that as amended the rule shall read:

Purpose. The Tennessee Real Estate Broker License Act of 1973 (as amended) requires satisfactory completion of certain courses in real estate by applicants for, and holders of, licenses as a broker or affiliate broker. This chapter establishes standards and procedures governing the establishment and operation of courses, programs, and schools which are designed to satisfy such educational requirements. This chapter further establishes guidelines and requirements to be fulfilled by licensees in obtaining required education.

Authority: T.C.A. §§62-13-106, 62-13-203 and 62-13-303.

Rule 1260-05-.03 Requirements for Courses is amended by deleting the text of subparagraph (1)(a) and substituting instead the following so that as amended subparagraph (1)(a) shall read as follows:

- (1) (a) cover subjects which are reasonably related to the practice of real estate and suitably advanced to benefit and enrich the students enrolled;

Authority: T.C.A. §§62-13-106, and 62-13-203.

Rule 1260-05-.03 Requirements for Courses is amended by deleting “category (3) credit” in the first sentence of subparagraph (5)(a).

Authority: T.C.A. §§62-13-106, 62-13-203 and 62-13-303.

Rule 1260-05-.03 Requirements for Courses is amended by deleting the text of paragraph (6) in its entirety and substituting instead the following so that as amended paragraph (6) shall read as follows:

- (6) A candidate for an affiliate broker license shall be deemed to have completed the 60 hour course described in paragraph (3) above if:
 - (a) the candidate holds a college or university degree with a major or concentration in real estate and the candidate’s transcript shows successful completion of at least one 3 hour (30 hours or more of classroom instruction) course in the principles/fundamentals of real estate and at a minimum two more courses totaling at least 60 hours of classroom instruction in real estate as evidenced by the title or description of the course; or
 - (b) the candidate holds a law degree and the law school transcript evidences successful completion of at least one 3 hour course (30 hours or more of classroom instruction) in real property and at least 60 other hours of classroom instruction in contracts and agency.

Authority: T.C.A. §§62-13-106, 62-13-203 and 62-13-303.

Rule 1260-05-.07 Records is amended by deleting the text of paragraph (3) in its entirety and substituting instead the following so that as amended paragraph (3) shall read as follows:

- (1) Each sponsor of any Commission approved continuing education course for affiliate brokers, or post licensing course for brokers, shall submit to the Commission, within ten (10) working days of the completion of the course, a roster of all students who successfully complete each course. The roster shall include the name and license/file identification number of each student. This information shall be provided in a roster format approved by the Commission.

Authority: T.C.A. §§62-13-106, 62-13-203 and 62-13-303.

Rule 1260-05-.11 Correspondence Courses is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended the rule shall read as follows:

(1) The term "distance education" shall be used interchangeably with the term "correspondence courses" and shall include all education in which instruction does not take place in a traditional classroom setting but rather through other media where the teacher and student are separated by distance and/or by time. Distance education courses approved by the Commission shall be completed within one (1) year of the date of enrollment in order for continuing education to be granted to the licensee. Distance education may include, but is not necessarily limited to the following categories of learning materials and/or transmission modes:

(a) Printed Material. A distance education course using printed materials may be approved by the Commission if:

1. students will be provided a manual or other printed materials;
2. a comprehensive course outline, requirements for successful completion of the course and information regarding availability of faculty to students are provided;
3. it contains at least six (6) written exercises which are to be submitted periodically to the instructor, graded and returned to the student; and
4. if the class provides more than eight (8) hours of credit, a comprehensive final examination or equivalent measure of achievement is executed prior to the sponsor submitting the roster to the Commission indicating successful completion of the course for any and all students.

(b) Computer Based/Disk/Online Material. A distance education course using these materials and/or formats may be submitted to the Commission for analysis and possible approval if the course is certified by the Association of Real Estate License Law Officials (ARELLO), or other certifying body at the discretion of the Commission, as to technology, support of the technology, interactivity and course design.

1. The Commission will review these certified courses on a case by case basis to determine whether the curriculum will meet Commission education requirements.
2. Any course which would provide more than eight (8) hours of continuing education shall include a final examination which shall be executed prior to submission to the Commission for education credit.
3. Approval of a course under this paragraph will be automatically withdrawn should certification by the respective certifying body be discontinued for any reason.

Authority: T.C.A. §§62-13-106, 62-13-203 and 62-13-303.

Rule 1260-05-.16 Course Approval Periods is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that as amended the rule shall read as follows:

1260-05-.16 Course Approval Periods.

- (1) Effective January 1, 1993, the Commission will approve courses based upon a four (4) year review cycle of all courses. Each cycle will end on December 31st of the fourth year. The first four (4) year period of approval will end December 31, 1996.
- (2) Each course approval shall remain effective until the end of the review cycle notwithstanding the date upon which it was approved.
- (3) All course providers shall be required to resubmit their courses for approval at least one hundred twenty (120) days prior to the applicable expiration date. Failure to meet this deadline may result in the non-approval of a course.

Authority: T.C.A. §§62-13-106, 62-13-203 and 62-13-303.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 28th day of February, 2007. (FS 02-37-07, DBID 599)